



# **JUSTICE ADVISORY BOARD 2022 Annual Update to Iowa's Three-Year Criminal and Juvenile Justice Plan**

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Iowa Department of Human  
Rights – Division of Criminal  
and Juvenile Justice Planning  
and Statistical Analysis  
Center

Steve Michael, Administrator  
321 E. 12<sup>th</sup> Street  
Des Moines, IA 50319  
(515) 242-5823  
<https://humanrights.iowa.gov>



Division of Criminal and Juvenile Justice Planning

Staff:

Mindi TenNapel, Research Coordinator

Cheryl Yates, Justice Systems Analyst

Ilma Jahic, Justice Systems Analyst

Heather Caspers, Justice Systems Analyst

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## **Justice Advisory Board Members**

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State Public Defender's Office

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Nick Davis  
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Iowa Senate - District

Cody Samec  
Therapist  
Eyerly Ball Community Mental Health Services

\*Ex-Officio

## 2022 JUSTICE ADVISORY BOARD

### Annual Update to Iowa's Three-Year Criminal and Juvenile Justice Plan Executive Summary and 2022 Recommendations

In 2019, the Legislature passed House File (HF) 634 that established the Justice Advisory Board (JAB) in the Department of Human Rights, Division of Criminal and Juvenile Justice Planning (CJJP). The JAB is required, per Iowa Code §216A.135, to develop and submit a plan and report to the Legislature and Governor.

The three-year criminal and juvenile justice plan, developed by the JAB in 2020, identifies the following priorities, goals, and recommendations, which are described in the full report with specific action steps. This report updates the initial three-year plan with current activities and research informing the JAB in the development of strategies and recommendations for the priorities; along with planning for upcoming action steps necessary to make improvements in the priority areas in year three. Achieving the goals will require coordinated efforts from multiple justice entities and the legislature.

A summary of the JAB recommendations is below. The full updated report follows in more detail with the long-term plan.

#### **Priority 1 Racial Justice**

##### Goals:

- a. End racial profiling.
- b. Eliminate racial disparities to create an unbiased juvenile and adult criminal justice system.
- c. Eliminate disparities in excessive use of force and death in custody.

##### Recommendations:

- Collect and analyze data to identify racial profiling and disparities in the juvenile and criminal justice systems.
  - The Governor's FOCUS Committee on Criminal Justice Reform prioritized reducing racial disparities in the justice system. The group focused on finding ways to collect and analyze data to better understand who is being stopped by police, ban racial profiling by police, and more broadly, identify ways to prevent disparate treatment by law enforcement.<sup>1</sup> The JAB concurs with the FOCUS Committee recommendation to collect self-reported race/ethnicity at the time of obtaining or renewing driver's licenses. Embedding this information in the Department of Transportation (DOT) data would allow the Traffic and Criminal Software (TraCS) to automatically populate this information when a license or ID

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<sup>1</sup>Recommendations of the Governor's FOCUS Committee on Criminal Justice Reform: Promoting an Unbiased Criminal Justice System. (October 29, 2020)

[https://governor.iowa.gov/sites/default/files/documents/FOCUS%20Committee%20Report%202020.pdf?utm\\_medium=email&utm\\_source=govdelivery](https://governor.iowa.gov/sites/default/files/documents/FOCUS%20Committee%20Report%202020.pdf?utm_medium=email&utm_source=govdelivery)

card is scanned. This automated process will allow for more accurate data collection and analysis while easing any burdens on and eliminating selection perception by law enforcement.<sup>2</sup>

- Due to the uncertainty of accomplishing the FOCUS recommendations, the JAB will also seek to identify additional methods to collect data that will determine if racial profiling is occurring during law enforcement data stops. The JAB will contact local city and county entities that may be collecting such data due to local ordinances or agency policies.
- Eliminate racial disparities to create an unbiased justice system.
  - A report published by the Sentencing Project (October 2021) has identified Iowa as one of the states with the largest disparity in Black/White incarceration. National recommendations offered in the report include eliminating mandatory sentences for all crimes, requiring prospective and retroactive racial impact statements for all criminal statutes, and decriminalizing low-level drug offenders.<sup>3</sup>
  - Require a legislative committee to review the Legislative Services Agency (LSA) correctional and racial impact statements for all proposed legislation to be reviewed, prior to being voted on in committee to identify the effect on the prison population and racial disparity, per Iowa Code Section §2.56.
  - Entry into the system – Provide pre-charge diversion opportunities for low-risk juvenile and adult offenders.
    - Continue to study pre-charge diversion programs to determine effectiveness and expansion to additional communities.
    - Explore strategies to end the school-to-prison pipeline and racial disparities by implementing effective practices that keep students in school and keep schools safe, such as school-based restorative intervention practices.
  - Pretrial release – Provide alternatives to bonds and pretrial services for adults and detention alternatives for juveniles.
    - Establish a standardized structure for bond practices and policies.
    - Establish a standardized structure for bail bond practices and policies for new offenses and parole revocations.
  - Reduce juvenile offenders prosecuted as adults - Modify the Iowa code and enhance funding for juvenile offender services.
    - Eliminate direct file for 16- and 17-year-old youth to adult court for certain offenses (Iowa Code §232.8.1.c).
    - Provide additional effective services and treatment for youth in the juvenile court system.

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<sup>2</sup> *Ibid.*

<sup>3</sup> The Color of Justice: Racial and Ethnic Disparity in <https://www.sentencingproject.org/wp-content/uploads/2016/06/The-Color-of-Justice-Racial-and-Ethnic-Disparity-in-State-Prisons.pdf>

- Utilize research on adolescent brain development to develop services, treatment, and methods of accountability for all persons under 25 years of age who are in the juvenile and adult justice systems.
- Increase access and availability of community treatment options.
- Iowa Code §124.401 was amended in 2017 for offenses that involve possession of crack cocaine that reduced the disparities between crack versus powder cocaine amounts, but did not equalize them. The JAB recommends equalizing the quantity for each class level and sentence, so African Americans are not incarcerated for longer periods of time than Whites (see page 9 of the report for full details).
  - In 2021, the Iowa County Attorney's Association supported the passage of H.R. 1693, the Eliminating a Quantifiably Unjust Application of the Law (EQUAL) Act to eliminate the disparity in Federal sentencing between crack and powder cocaine.<sup>4</sup> Although the bill did not pass at the federal level, CJP will continue to report on any activity related to this effort in the future.

Third year activities/recommendations include:

- Locating additional race and ethnicity data as early in the criminal justice process as possible.
- Obtaining data surrounding prosecutorial discretion and law enforcement crime statistics.
- Researching additional training opportunities for cultural issues, including best practices in other states.
- Continue work on jail data quality for potential analysis on bail practices and racial differences in length of stay, charges, etc.

## **Priority 2 Mental Health**

### **Goals:**

- a. Identify offenders who need mental health care and provide appropriate services and placement in the juvenile and criminal justice systems.
- b. Provide safe treatment and living conditions for those with mental health needs in the juvenile and criminal justice system.

### **Recommendations:**

- Standardize mental health services to enhance early intervention and diversion strategies for juvenile and adult offenders (e.g. crisis intervention teams, tele-health, available in-patient treatment, mental health courts).
- Explore funding availability for communities to develop mental health services to work with law enforcement during crisis situations encountered during officer calls, similar to the Marshalltown Police and Community Team (MPACT).

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<sup>4</sup> Reynolds, Jessica A., Bull, Ed (2021). Equal Act Letter provided by Iowa County Attorney Association

- Provide effective mental health treatment and medications for incarcerated offenders and during the transition as offenders re-enter the community, including expediting Medicaid coverage upon release and providing 30-days of medication upon release from jail or prison.
- Prioritize community-based mental health and substance abuse resources for those transitioning from jail and prison.

Third year activities/recommendations include:

- Identification of current partnerships between law enforcement and mental health professionals within Iowa.
- Study and report on current mental health services versus need capacity in Iowa.
- Create an inventory of what is being done on pre-jail and other forms of diversion.
- Tracking of results on access centers (education on services they provide, reach, etc.).
- Promotion of the pre-jail diversion in multiple ways (law enforcement, first responder assisted, mental health, correspondence, access center handoffs/referrals).

### **Priority 3 Community-based corrections and alternatives to incarceration**

#### **Goals:**

- a. Reduce entry to prison.
- b. Reduce revocations to prison when possible.
- c. Increase the use of effective treatment courts.
- d. Document lessons-learned from COVID-19.

#### **Recommendations:**

- Identify opportunities for earlier release from prison when appropriate and utilize technology to help make appropriate prison release decisions.
- Consider restorative justice and merit-based probation.
- Use revocations only when necessary; consider other options when possible.
  - Understand offenders' needs and reasons for them being revoked.
  - Use validated risk assessment tools to aid decision making regarding whether it is appropriate to use revocation or whether alternatives could be provided.
  - Collect data on revocations to better understand why and when they happen.
- Enhance community-based correctional services to include additional alternatives to prison, based on evidence-based practices.
  - Advocate and support programs that provide alternatives to incarceration.
  - Align prison-based apprenticeship programs with licensing boards to ensure career opportunities are available upon release from prison.
  - Identify sustainable funding sources for effective treatment courts.
  - Study the effectiveness of violator programs and investigate other alternatives that are shown to be effective.



- Review changes due to COVID and public safety.
  - The past two Prison Population Forecast reports in 2020 and 2021 provided data showing COVID's effects on reducing the prison and community-based services populations. It also provided information on the policies implemented by the IDOC, BOP, and Courts to mitigate the impacts of COVID. If COVID continues to have impacts on the correctional population or if new COVID policies are implemented, these will continue to be identified, monitored, and reported in future reports and made available to the JAB.
  - Provide the opportunity for DOC and Council of State Governments to share information on lessons learned from COVID.

Third year activities/recommendations include:

- Studying variations across districts in policies and practices for parole discharge and finding opportunities to develop more consistency across districts.
- Studying merit-based discharge from probation.
- Examining data on revocations and considering tools and programs for the use of effective alternatives to revocation.

#### **Priority 4 Sex offenders**

##### Goals:

- a. Examine the effectiveness of the special sentence, including the reason for revocations to prison (e.g. new offense, technical violation).
- b. Examine the efficacy of sex offender residency restrictions as well as restrictions on employment and ability to enter or access public facilities (e.g. libraries).
- c. Support survivors / victims.

##### Recommendations:

- Determine the effectiveness of the Special Sentence supervision and residency restrictions (2,000 feet from child care facilities and schools) in reducing sex offenses.
- Educate legislators and policy makers on sex offenders outcomes and the effectiveness of current policies.
- Provide promising practices to support victims/survivors of sex offenses.

Third year activities/recommendations include:

- Summarizing past research on sex offenders to present findings statewide.
- Examining the validity of risk assessments utilized for removing offenders from the sex offender registry.
- Collaborating with the Iowa Crime Victim Assistance Division (CVAD).

The JAB has selected the existing Juvenile Justice Advisory Council (JJAC) to serve as the juvenile justice system subcommittee, required by §216A.137.2. The JJAC also completes a three-year plan that is submitted to the federal Office of Juvenile Justice and Delinquency Prevention (OJJDP). The JJAC has identified priority areas on juvenile justice. There is overlap in multiple

priorities (racial justice, mental health, and prosecuting juveniles in adult court). The JAB and JJAC will work together to accomplish those common goals and action steps.

The JAB recognizes that to achieve the identified goals and recommendations will require coordinated efforts from all three branches of government. The JAB and CJJP staff will partner with policy makers and assist in implementing the recommendations.

## 2022 JUSTICE ADVISORY BOARD

### Annual Update to Iowa's Three-Year Criminal and Juvenile Justice Plan

## History and Introduction

The following report is the annual update of the three-year criminal and juvenile justice plan for the state created by the Justice Advisory Board (JAB). In 2019, the Legislature passed House File (HF) 634 that established the JAB in the Department of Human Rights, Division of Criminal and Juvenile Justice Planning (CJJP). The legislation also eliminated three existing advisory bodies - the Criminal and Juvenile Justice Planning Advisory Council (CJJPAC), the Public Safety Advisory Board (PSAB), and the Sex Offender Research Council (SORC). The JAB has assumed many of the responsibilities, duties, and objectives of the three entities eliminated by the Act.

The JAB is required, per Iowa Code §216A.135, to develop and submit a plan and report to the Legislature and Governor:

1. *The board shall submit a three-year criminal and juvenile justice plan for the state, beginning December 1, 2020, and every three years thereafter, by December 1. The three-year plan shall be updated annually. Each three-year plan and annual update of the three-year plan shall be submitted to the governor and the general assembly by December 1.*
2. *The three-year plan and annual updates shall include, but are not limited to the following:*
  - a. *Short-term and long-term goals for the criminal and juvenile justice systems.*
  - b. *The identification of issues and studies on the effective treatment and supervision of adult and juvenile sex offenders in institutions, community-based programs, and the community.*
  - c. *Analysis and recommendations of current criminal code provisions.*
  - d. *The effectiveness and efficiencies of current criminal and juvenile justice policies, practices, and services.*
  - e. *Collection of criminal and juvenile justice data.*
  - f. *Recommendations to improve the criminal and juvenile justice systems.*

The JAB consists of 26 members (20 voting members and 6 ex officio (non-voting members), appointed as specified in §216A.132, all residing within the state of Iowa. The duties of the board are enumerated in §216A.133. The purpose of the JAB is to:

- a. Develop short-term and long-term goals to improve the criminal and juvenile justice systems;
- b. Identify and analyze justice system issues;
- c. Develop and assist others in implementing recommendations and plans for system improvement;
- d. Provide the General Assembly with an analysis of current and proposed Criminal Code provisions; and

- e. Provide for a clearinghouse of justice system information to coordinate with data resource agencies and assist others in the use of justice system data.

The Justice Advisory Board began 2021 studying, researching, and learning more about the issues surrounding the priority areas. The board heard presentations on a number of the identified issues. In addition, the JAB received reports on the activities and recommendations of the Governor's FOCUS Committee on Criminal Justice Reform and the Juvenile Justice Advisory Council. The CJJP staff facilitated several discussions and provided data and research on identified topics. In 2022, the JAB continues to study and be provided with research, data, and presentations on the four Priority issues identified; however, there is more work to be done. As a result, this updated plan will describe the specific action steps taken to address the priority areas, and identify the next steps in year three.

In addition, there are several recommendations and action steps that will require input, guidance, and action from additional stakeholders (e.g. legislators, state and local agencies, and additional stakeholders). The recommendations are based on the learnings and cumulative knowledge and wisdom of the JAB members. CJJP staff will partner with the specific entities needed to complete the recommended action steps to achieve the goals.

The report includes priorities, goals, and recommendations to the General Assembly as required. Recommendations supported by the JAB are based on a majority vote. The JAB respectfully submits this report and welcomes the opportunity to provide any additional assistance to the Iowa Legislature upon request.

# Juvenile Justice Priorities and Goals

The JAB has selected the existing Juvenile Justice Advisory Council (JJAC) to serve as the juvenile justice system subcommittee, required by §216A.137.2. The JJAC completes a three-year plan, which is submitted to the federal Office of Juvenile Justice and Delinquency Prevention (OJJDP). The JJAC has identified juvenile justice priority areas and goals for federal fiscal years 2022-2024. There is overlap in some of the priorities and the JAB and JJAC will work together to accomplish those specific goals and action steps.

Andrew Allen, Chair of the JJAC, presented the five juvenile justice priorities of the juvenile justice three-year plan to the JAB:

## **Priority 1: Prevention and Intervention**

**Goal 1:** Identify, inventory, and study prevention programs for youth who are not involved in the juvenile justice system that are effective, with the goal to further their success.

**Goal 2:** Expand early intervention and Pre-Charge Diversion (PCD) programs. The Disproportionate Minority Contact (DMC) Subcommittee of the JJAC has assisted in developing PCD in three communities, with favorable outcomes.

## **Priority 2: Mental Health**

**Goal 1:** Determine the need for mental health, substance abuse, and family therapy services for juvenile offenders.

**Goal 2:** Collect data to analyze ongoing needs for services and to measure success.

## **Priority 3: Transition of Youth**

**Goal 1:** For juveniles involved in the juvenile court system, allow the court to extend jurisdiction up to the age of 21 years of age.

**Goal 2:** Study effective community-based and residential rehabilitative models to provide the appropriate level of care for moderate and high-risk offenders, up to the age of 21 years of age.

**Goal 3:** Do not allow juvenile offenders to be waived to adult court except for youth alleged to committing felony offenses.

**Goal 4:** Standardize juvenile reentry best practices.

## **Priority 4: Female Equity**

**Goal 1:** To ensure that a female and racial equity lens is intentionally used in all areas, train the JJAC and service providers on female and racial equity.

**Goal 2:** Provide an adequate level of care for high-risk girls in the juvenile justice system.

## **Priority 5: Disproportionate Minority Contact**

**Goal 1:** Minimize system contact for low risk youth of color by developing formal state-wide diversion opportunities at early juvenile justice system processing.

**Goal 2:** Formalize collaboration with Iowa Task Force for Young Women.

**Goal 3:** Investigate issues regarding refugee and immigrant youth with the intent of informing and educating juvenile court officers and judges.

**Goal 4:** Research and affect change for high-risk youth of color eligible for State Training School (STS) placement according to Iowa Code Section 232.52 (2).

# **Justice Advisory Board - Priorities, Goals, and Action Steps**

## **Priority 1: Racial Justice**

A report published by the Sentencing Project (October 2021) has identified Iowa as one of the states with the largest disparity in Black/White incarceration. National recommendations offered in the report include eliminating mandatory sentences for all crimes, requiring prospective and retroactive racial impact statements for all criminal statutes, and decriminalizing low-level drug offenders.<sup>5</sup>

The work that the Justice Advisory Board (JAB) intends to accomplish coincides with growing national recognition of the need to end racial injustices. Iowa's NAACP and the ACLU are collaborating with lawmakers on issues and actions needed to work towards racial equity in many different areas. Efforts are also underway at the local level. The Local and Regional Government Alliance on Race and Equity is working with several cities in Iowa (Des Moines, Iowa City, Dubuque, and Cedar Rapids).

The Iowa Justice Action Network is a statewide group of citizens concerned with criminal justice reform. In 2020, the group held a community forum to discuss racial inequality in Iowa's criminal justice system and created an action list for local and state reform. Policing was one of the action areas identified, including holding officers accountable, unarmed interactions with the community, publicizing data on disproportionality, funding community policing, and state policies on racial profiling, use of force, and citizen review of police encounters.

The Iowa Supreme Court Juvenile Justice Task Force is reviewing the continuum of care in Iowa's Juvenile Justice System and will be making recommendations to improve its services, governance, and data collection. Recommendations shall also include options to address the system's racial and gender disparities. Task force members are made up of Iowans who include service providers, law enforcement, legislators, county attorneys, public defenders, attorneys, youth and family members, law schools, and state entities, including CJJP. Recommendations will be made to the Chief Justice, Governor, and Legislature, in December 2022.

The Governor's FOCUS Committee on Criminal Justice Reform prioritized reducing racial disparities in the justice system. The group focused on finding ways to collect and analyze data to better understand who is being stopped by police, ban racial profiling by police, and more broadly, identify ways to prevent disparate treatment by law enforcement.<sup>6</sup> The JAB concurs with the FOCUS Committee recommendation to collect self-reported race/ethnicity at the time

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<sup>5</sup> The Color of Justice: Racial and Ethnic Disparity in <https://www.sentencingproject.org/wp-content/uploads/2016/06/The-Color-of-Justice-Racial-and-Ethnic-Disparity-in-State-Prisons.pdf>

<sup>6</sup> Recommendations of the Governor's FOCUS Committee on Criminal Justice Reform: Promoting an Unbiased Criminal Justice System. (October 29, 2020) [https://governor.iowa.gov/sites/default/files/documents/FOCUS%20Committee%20Report%202020.pdf?utm\\_medium=email&utm\\_source=govdelivery](https://governor.iowa.gov/sites/default/files/documents/FOCUS%20Committee%20Report%202020.pdf?utm_medium=email&utm_source=govdelivery)

of obtaining or renewing driver's licenses. Embedding this information in the Department of Transportation (DOT) data would allow the Traffic and Criminal Software (TraCS) to automatically populate this information when a license or ID card is scanned. This automated process will allow for better data collection and analysis while easing any burdens on law enforcement.<sup>7</sup> The legislature should take significant precautions to ensure appropriate confidentiality of the driver's license data, and the data is only available to agencies such as CJPJ for analysis purposes.

With the current driver's license renewal policies defined under State Code, it will take up to 8 years for existing drivers to register their race/ethnicity. Further investigation is needed to determine the completeness of any other racial data that is currently being collected at the local, county, or agency level. Any data collected locally would need preliminary analyses to determine if it could be used for a more comprehensive, state-wide analysis.

The CJPJ issued a report in 2020 that compiled data showing disparities among youth within the juvenile justice system and made recommendations for systemic changes. The report highlights the need to do more to eliminate disparities. Trend data shows when comparing African American youth to White youth:

- African American youth are 6.5 times more likely to enter the system with low level offenses.
- African American youth are 9.8 times more likely to be waived to adult court.
- African American youth are 14.3 times more likely to be direct-filed to adult court.<sup>8</sup>

Sharing the sentiments and efforts of many others, the JAB's first priority is to address racial justice. Racial justice refers to a justice system that is equitable, fair, and impartial at each decision point along the criminal justice continuum. Decisions are made based on factors irrespective of race, ethnicity, or origin.

Racial inequality is simply not acceptable. There are obvious disparities between people of color and whites in the criminal justice system, ranging from police arrests to the disproportionate numbers of African American youth and adults who are incarcerated. *"Deeply racialized systems are costly and depress outcomes and life chances for us collectively. To advance equity, the government must focus not only on individual programs, but also on policy and institutional strategies that are driving the production of inequities."*<sup>9</sup> Some inequalities may be the result of practices that are deeply embedded in the system, such as criminalizing or more harshly penalizing certain offenses. Other times, it may be the result of implicit biases among key players in the justice system in their responses to people of color. The reasons for disparities need to be investigated through the collection of data, and the state needs to appropriately respond.

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<sup>7</sup> *Ibid.*

<sup>8</sup> Iowa Department of Human Rights, Division of Criminal and Juvenile Justice Planning. (2020). *Racial Disparities – An Analysis of Three Decision Points in Iowa's Juvenile Justice System*. <https://humanrights.iowa.gov/sites/default/files/media/Racial%20%20Disparities%20-%203%20Decision%20Points%20in%20JJ%2011%2023%2C%202020.pdf>

<sup>9</sup> The Government Alliance on Race and Equity. <https://www.racialequityalliance.org/>

The JAB has prioritized racial justice and has committed to take actions to achieve three goals:

- End racial profiling.
- Eliminate racial disparities in the juvenile and criminal justice system.
- Eliminate disparities in use of force and death in custody.

Systemic changes are necessary throughout the criminal justice system, and include changing policies, practice, and requiring training at every level of the system.

Each of the goals and actions are outlined in the table below, and more information is provided in the following section of the report.

**Table 1: Summary of Racial Justice Priority**

<b>Priority One: Racial Justice</b>
<b>Goal 1: End Racial Profiling.</b>
<i>Traffic and Pedestrian Stops, Warnings, and Searches</i>
Action Item 1: The FOCUS Committee identified data elements necessary to collect on police stops and searches, such as the addition of capturing self-reported race/ethnicity when obtaining or renewing a driver's license.
Action Item 2: Determine if race/ethnicity data is collected at the county or agency level.
Action Item 3: Support legislation that aims to prevent racial-profiling and promote unbiased policing.
<b>Goal 2: Eliminate racial disparities to create an unbiased juvenile and criminal justice system.</b>
<i>Pre-Charge and Pre-Trial Diversion</i>
Action Item 1: Investigate the assignment of bail bonds and granting of pre-trial release with services. Action Item 2: Examine the use of pre-charge diversion programs in the juvenile and adult systems. Action Item 3: Explore strategies to end the school-to-prison pipeline.
<i>Iowa Code, the Court System, and Sentencing Practices</i>
Action Item 1: Investigate racial disparity in waivers to adult court and the impact of waivers. Action Item 2: Work with Juvenile Justice Advisory Council to propose recommendations on waivers. Action Item 3: Analyze sentencing practices for racial disparity. Action Item 4: Propose code and sentencing recommendations to reduce or eliminate racial disparity.
<i>Jail and Prison</i>
Action Item 1: Investigate methods and cost of collecting jail data. Action Item 2: Partnering with the Department of Corrections (IDOC) to examine opportunities for treatment and services, while in prison, by race. Action Item 3: Assess racial disparity in parole releases.



<i>Systemwide</i>
<p>Action Item 1: Evaluate racial bias and cultural competency training of school resource officers (SRO), law enforcement, court personnel, and correctional staff.</p> <p>Action Item 2: Identify institutional bias and develop strategies to create a more equitable system.</p> <p>Action Item 3: Include an assessment of the impact of COVID on areas studied.</p>
<b>Goal 3: Eliminate disparities in excessive use of force and death in custody</b>
<i>Law Enforcement and Corrections</i>
<p>Action Item 1: Review and report on best practices that reduce excessive use of force, including de-escalation techniques.</p> <p>Action Item 2: Examine use of force policies and recommend changes.</p> <p>Action Item 3: Identify standardized methods for collecting reports of excessive use of force.</p> <p>Action Item 4: Analyze racial disparities in death in custody.</p> <p>Action Item 5: Analyze racial disparities in use of force by law enforcement and correctional officers.</p>

## Racial Justice Implementation Activities

### **THREE-YEAR GOAL: End Racial Profiling**

Racial profiling is defined as any police-initiated action that relies on the race, ethnicity, or national origin rather than the behavior of an individual or information that leads the police to a particular individual who has been identified as being, or having been, engaged in criminal activity.<sup>10</sup> In 2021, legislation was passed in Iowa to require annual implicit bias training for law enforcement officers; however, a proposed bill that would have specifically prohibited “disparate treatment in law enforcement, including racial and ethnic profiling,” was not passed by the legislature. A 2021 literature review conducted by CJP staff examined the effectiveness of implicit bias training and found limited success, with few studies connecting reduction of implicit bias with a reduced behavior. Additionally, other studies found limited effects, but the effects were brief. Experts have recommended that implicit bias training should be viewed as a component of larger efforts to reduce discrimination.

The first step towards ending racial profiling is to put methods in place to identify racial profiling incidents. Better documentation of racial profiling is necessary to determine its frequency in Iowa. The following short-term actions have been proposed by JAB:

- 1) The FOCUS committee has determined the data elements needed to identify racial profiling during traffic stops and pedestrian stops, however proposed legislation to capture this data has not passed.
- 2) Advocate for legislation in 2023 to collect data during arrests and traffic stops.

The JAB has identified some key data elements that are currently not available; for any traffic stop, not just citations and warnings:

- Race and ethnicity of individuals being stopped by law enforcement.
- Reason for the stop.

<sup>10</sup> U.S. Department of Justice. (November 2010). Resource Guide on Racial Profiling Data Collection Systems: Promising Practices and Lessons Learned. p. 6. (NCJ Number: 184768).  
<https://www.ncjrs.gov/pdffiles1/bja/184768.pdf>

- Duration of the stop.
- Search information.
- Result of the stop (arrest – released).

To better understand the impact of disparate treatment, the collection of qualitative data describing the experience of those being stopped is also recommended.

The JAB is interested in developing collaborative relationships with other state partners to identify potential data sources and develop strategies to collect the data. The NAACP is currently working with the Iowa Department of Transportation (DOT) on issues associated with collecting citizen's race and ethnicity as a part of the driver's license record. Other potential partners, such as the Department of Public Safety and the Governor's Traffic and Safety Bureau may be able to aid in the collection of data from police departments.

The JAB continues the recommendation to support legislation banning anti-racial profiling and promoting unbiased policing efforts, which requires:

1. *Defining racial profiling.*
2. *Law enforcement agencies to collect data on officer-involved stops.*
3. *Review and analysis of law enforcement officer stops.*
4. *Adequate training for law enforcement personnel to prevent profiling.*

The Governor's FOCUS Committee on Criminal Justice Reform recommended:

1. *Require and automate data collection on race from traffic stops.*
2. *Analyze and study the resulting data, and provide annual reports on the findings.*
3. *Adopt a statutory ban on disparate treatment in law enforcement activities and the delivery of police services.*

The JAB will partner with other agencies to accomplish these goals.

### **THREE-YEAR GOAL: Eliminate racial disparities to create an unbiased juvenile and criminal justice system**

Eliminating racial disparities to create an unbiased juvenile and criminal justice system is a goal that requires decision makers (e.g. law enforcement, adult and juvenile courts, probation, parole, prisons) to engage in equitable actions at each decision point along the criminal justice continuum from pre-arrest through correctional supervision. Implicit bias and cultural competency training are two possible avenues for achieving this goal. Each action area is described in more depth below.

#### **Pre-Charge and Pre-Trial**

The JAB recognizes that opportunities exist to work towards racial equity even before entrance into the court system. The board would like to take an initial step in gathering more information and collecting and analyzing data on processes for both adults and juveniles, specifically:

- 1) Investigating the assignment of bail bonds and pre-trial release with services through jail data recently obtained by CJJP.
- 2) Examining the use of pre-charge diversion programs in the juvenile and adult systems.

### 3) Continue to support strategies to end the school-to-prison pipeline.

The JAB would like to investigate bonds and pre-trial release for explicit or implicit racial bias and disparity. Research on these topics is sparse and outdated. Studies that examine other geographical areas are more plentiful and have shown that African American defendants are more likely to be detained pre-trial than Whites, which requires paying for bond or staying in jail.<sup>11</sup> Also, bond amounts for African Americans tend to be higher and they are less likely than Whites to qualify for other options like pre-trial release without bond.<sup>12</sup> The Bureau of Justice Statistics' last update of its Survey of Inmates in Local Jails was in 2020. This is an annual survey administered to a sample of 950 jails nationwide to estimate the number of inmates confined, demographics, criminal status, holds, admissions and releases, capacity, and number of jail employees.<sup>13</sup> CJJP received jail data for CY 2019 - CY 2021 and has begun to review it. Further review of data and how to resolve some data quality issues to make the jail data more usable has been proposed in the SAC 2022 grant. The Board recommends that this data be analyzed to evaluate effectiveness, uniformity and standardization. Additionally, Iowa's bail schedule should be compared to other states' schedules to determine if differences exist.

Another area of interest for the JAB is pre-charge diversion programs, including a review of programs in Iowa. For example, the Governor's Office of Drug Control Policy received a federal grant in 2019 to implement a pre-arrest and pre-trial diversion program for low-level drug offenders in three Iowa counties. This grant was recently extended through September 2023. CJJP serves as the contracted evaluator and is currently working with the counties to collect data on program participants. In addition, Iowa's JJAC's Disproportionate Minority Contact (DMC) Subcommittee has provided technical assistance to communities to initiate pre-charge diversion programs for juveniles. In October 2021, CJJP received a five-year grant with \$1.542 million in delinquency prevention grant funds from the United States Department of Justice, Office of Juvenile Justice and Delinquency Prevention, and an additional \$52,000 match from the Juvenile Justice Advisory Council. The purpose of this funding is to expand the availability of youth-focused (under age 18) pre-charge diversion programs across Iowa through competitive sub-grants that will be made available to local units of government. Beginning July 1, 2022, three communities have been awarded a sub-grant to expand pre-charge diversion efforts. These communities are Fort Dodge, Scott County, and Johnson County. A second sub-award process will be administered in 2023.

The JAB would like to explore strategies to end the school-to-prison pipeline. Specifically, the board is interested in gathering information and data on any racial disparities in youth referred to juvenile court by schools and school resource officers (SROs). SROs are police officers stationed in schools. In addition to referral data, the board would like to examine the extent that SROs are used in Iowa schools, background and training requirements for SROs, their

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<sup>11</sup> Equal Justice Initiative (2015) *Disproportionate Pretrial Detention of People of Color Drives Mass Incarceration*. <https://eji.org/news/people-of-color-disproportionately-detained-pretrial/>

<sup>12</sup> Sawyer, W. (October 2019). *How race impacts who is detained pretrial*. Prison Policy Initiative. [https://www.prisonpolicy.org/blog/2019/10/09/pretrial\\_race/](https://www.prisonpolicy.org/blog/2019/10/09/pretrial_race/)

<sup>13</sup> Bureau of Justice Statistics: Annual Survey of Jails  
<https://www.bjs.gov/index.cfm/dataonline/content/index.cfm?ty=dcdetail&iid=261>.

roles/responsibilities, and adherence to best practices.<sup>14</sup> DHR and CJP activities to date include:

1. In 2021, two DHR Racial Justice Youth Action Squad members provided recommendations supported by data and research to Des Moines Public School Board (Iowa's largest and most diverse school district) with a districtwide approach to restorative justice. These youth met with district administrators, school board members, and other stakeholders to present student and community survey data regarding experiences/perceptions of School Resource Officers. At the request of the Youth Action Squad members, CJP prepared a data report which highlighted juvenile complaints originating at Des Moines Public Schools (DMPS) from 2015-2019. Beginning in the 2021-2022 school year, DMPS has redirected funds previously used to support the School Resource Officer program to implement a district wide approach to restorative justice, which includes dedicated student support staff members who lead this work in the district's high schools. At the conclusion of the 2021-2022 school year, the first full school year without SROs, CJP authored an updated data report which showed a 79.6% reduction in juvenile complaints occurring at DMPS from the 2021-2022 and 2018-2019 school years. The 2018-2019 school year was the last full, uninterrupted school year in which DMPS had SROs. This report has been made available to DMPS administration.

The two Youth Action Squad members, serving as AmeriCorps members at CJP, created a toolkit for school districts to use data to determine the effectiveness of their local SRO program, and strategies to use restorative justice models in schools.

2. During the summer of 2021, CJP was approached by the Cedar Rapids Community School District (CRCSD) to provide data regarding juvenile complaints and allegations originating at Cedar Rapids Schools as the district was exploring modifications to its School Resource Officer Program. CJP provided CRCSD with a data profile from the last 6 school years to show the demographic breakdown of juvenile complaints and allegations originating at schools. CJP also connected CRCSD with members from the Racial Justice Youth Action Squad to share best practices for engaging youth in changing the planning and discussion regarding the SRO program. CRCSD implemented changes to its SRO program for the 2021-2022 school year which included an updated memorandum of understanding between CRCSD and the Cedar Rapids Police Department (CRPD), soft uniforms for police officers on school grounds, and removal of dedicated officers from CRCSD middle schools. Throughout the 2021-2022 school year, CJP provided updated, quarterly reports to CRCSD administration and CRPD about the demographic makeup and nature of juvenile complaints originating at schools. At the conclusion of the school year, the data showed a 79.1% reduction in juvenile complaints occurring at CRCSD.

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<sup>14</sup> National Association of School Resource Officers, Inc. (2018). *Standards and Best Practices for the School Resource Officer Programs*. <https://www.nasro.org/clientuploads/About-Mission/NASRO-Standards-and-Best-Practices.pdf>

3. Beginning in the fall of 2021, CJP has participated in discussions with the ACLU of Iowa to review statewide data of juvenile complaints occurring at schools including the demographic makeup of complaints and the nature of allegations within these juvenile complaints. This dialogue between CJP and the ACLU is in its early stages and will continue into 2022. It is important to note that the data available in the Justice Data Warehouse is limited to being able to identify the place of occurrence for juvenile complaints which allows us to identify those complaints that occurred at schools across the state, but it is not known if these complaints involved a designated SRO. The ACLU is planning on creating an advocacy toolkit to be shared with individuals and groups who have an interest in transforming SRO programs.

#### Iowa Code, the Court System, and Sentencing Practices

Iowa Code, the court system and sentencing practices are areas that have been noted by the JAB to have numerous points where inequity or racial disparities exist or commonly exist in the U.S. Previous councils have examined these areas and this board would like to continue those efforts by:

- 1) Investigating racial disparity in juvenile offenders waived to adult court and the impact of waivers (e.g. sentencing, recidivism).
- 2) Working with the JJAC to propose recommendations on waivers.
- 3) Analyzing sentencing practices for racial disparity.
- 4) Proposing code and sentencing recommendations to reduce or eliminate racial disparity.

In May 2022, CJP provided the JAB an updated report on juveniles waived to adult court. Racial disparities are evident among youth involved in adult court. 34.0% of youth in adult court were Black, but Black youth comprise only 7.3% of the state's total youth population. Furthermore, the report showed racial disparities among youth that had a direct file charge in adult court compared to youth who were waived to adult court by the juvenile court. Of the direct filed youth 43.8% were Black, and 31.6% of the waived youth were Black. The direct filed youth must be 16 or 17 years of age and have allegedly committed more serious offenses that are, under law, required to be directly filed in adult court (forcible felonies, felony weapons, and serious drug offenses). For direct filed youth, there is a "reverse waiver" option under law allowing the adult court to order direct file youth back to juvenile court. However, of the direct file youth studied, White youth were more likely to be reverse waived than Black youth (48.3% vs. 43.0%). Additional information will be collected and provided to the JAB on the correctional supervision of youth convicted in adult court.

The JAB is interested in further study to identify decision points that may result in racial disparities among youth who are waived to adult court. In addition, a review of other states' laws and policies, specifically for mandatory waivers (direct file) of older youth (16 and 17 years of age). The JAB will invite the JJAC to collaborate on a joint recommendation. The recommendation could include eliminating direct file of youth to adult court, extending juvenile court jurisdiction, and providing more services in the juvenile court system.

Mandatory minimum sentences have been studied by the PSAB,<sup>15</sup> and the group made recommendations for modifications to robbery mandatory minimum legislation prior to the passage of HF2064 in FY2016. A portion of the bill was then repealed in 2019, eliminating robbery 3 (aggravated misdemeanor). The JAB would like to continue to study and make recommendations on mandatory minimum sentences and its impact on African Americans.<sup>16</sup> In addition to robbery mandatory minimums, the JAB intends to research the impact of the legislature's elimination of aggravated theft as a non-felony charge on African Americans and investigate any racial disparities in robbery charges.

Penalty options for equalizing the amount of crack and powder cocaine has been discussed for a decade by PSAB. Iowa data presented to the PSAB suggest that this disparity in penalties contributes to disproportionate incarceration of African-Americans. Research illustrates that the physiological and psychotropic effects of crack and powder cocaine are the same, and that the drugs are now widely acknowledged as pharmacologically identical.

Iowa Code §124.401 was amended in 2017 for offenses that involve possession of crack cocaine. The amounts of crack cocaine classified as Class B and Class C felonies were increased, while the powder cocaine amounts did not change. This reduced the disparities between crack versus powder cocaine amounts, but did not equalize them. The table below shows the current amounts of crack cocaine and powder cocaine with their corresponding penalties. The JAB recommends equalizing the quantity for each class level and sentence, so that fewer African Americans are incarcerated for longer periods of time than Whites.

**Table 2: Cocaine Possession Penalties in Iowa as of 2017**

Iowa Code	Class Level and Sentence	Crack Cocaine	Powder Cocaine
§124.401(1)(a)	B Felony Up to 50 years Mandatory Minimum one-third Fine <\$1,000,000	Over 200 grams	Over 500 grams
§124.401(1)(b)	B Felony Up to 25 years Mandatory Minimum one-half Fine \$5,000 - \$100,000	40 to 200 grams	100 to 500 grams
§124.401(1)(c)	C Felony Up to 10 years Fine \$1,000 - \$50,000	Under 40 grams	Under 100 grams

<sup>15</sup> Stageberg, P. & Rabey, S. (2013). *An Analysis of the use of 70% Mandatory Minimum Sentences in Iowa*. [https://humanrights.iowa.gov/sites/default/files/media/Violent\\_Offender\\_70Pct\\_Report%5B1%5D.pdf](https://humanrights.iowa.gov/sites/default/files/media/Violent_Offender_70Pct_Report%5B1%5D.pdf)

<sup>16</sup> A 2013 CJJP analysis studied mandatory minimum sentences imposed by §902.12 of the Iowa Code (the "70% rule"). It found a disproportionate impact on minorities, showing that 37% of offenders serving mandatory minimums were African American (compared to 26% of African Americans in the total prison population).

CJJP examined data on charging practices, prison entries, and lengths of stay in prison for all powder cocaine and crack cocaine charges prior to (SFY15-17) and after (SFY18-20) the law change. The data show that charges for crack cocaine possession decreased for African Americans after the law went into effect (82.3% to 77.7%). African Americans entering prison also decreased for both powder cocaine (71.2% to 60.0%) and crack cocaine (90.9% to 85.9%) after the law went into effect.

HF2462 was passed in 2022, increasing the penalties for manufacture and delivery of heroin by reducing the amounts of heroin required for penalty under Code 124.401(1)(a,b,c)(1). More than 100 grams will carry a B felony subject to a penalty of 50 years incarceration and a fine of up to \$1,000,000. 5 to 100 grams will carry a B felony subject to a penalty of 25 years incarceration and a fine of up to \$100,000. Less than 5 grams will carry a C felony subject to a penalty of 10 years incarceration and a fine of up to \$50,000. Also, persons convicted will face a mandatory minimum sentence of at least one-third or up to one-half of their sentence. This new law could have a disparate correctional impact on African Americans. There were 27 convictions in FY2021 under 124.401(1)(c)(1). After adjusting for unknown race, 53.5% of those convictions were for White offenders and 45.8% were Black. The impact of this new law will be monitored by the JAB.

The JAB will also monitor marijuana legalization and outcomes in other states. This is important because Iowa ranks as the fifth highest state in racial disparities for marijuana arrests.<sup>17</sup> In Iowa, a Black person is 7.3 times more likely to be arrested than a white person for marijuana possession even though usage is similar.<sup>18</sup> The collateral consequences of a drug charge can be substantial.

Finally, the JAB is interested in analyzing sentencing practices for racial disparity. Prior to legislation being passed, Iowa law currently mandates correctional and racial impact statements to identify any impact on the prison population and racial disparity. These statements need to be carefully reviewed and given consideration by the legislature and other decision makers, prior to passage. The JAB is exploring ways to increase legislative consideration of impact statements prior to passing legislation, including having a subcommittee review proposed bills prior to their passage if they are determined to potentially have a big impact on minorities.

### Jail and Prison

Jail and prisons are two other areas where racial disparities exist. Action items identified by the JAB include:

- 1) CJJP analyzing the jail data it has recently received.

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<sup>17</sup>American Civil Liberties Union. (April 2020). *A Tale of Two Countries: Racially Targeted Arrests in the Era of Marijuana Reform*. [https://www.aclu-ia.org/sites/default/files/tale\\_of\\_two\\_countries\\_racially\\_targeted\\_arrests\\_in\\_the\\_era\\_of\\_marijuana\\_reform.pdf](https://www.aclu-ia.org/sites/default/files/tale_of_two_countries_racially_targeted_arrests_in_the_era_of_marijuana_reform.pdf)

<sup>18</sup> Ibid.

- 2) Partnering with the Department of Corrections (IDOC) to examine opportunities for treatment and services, while in prison, by race.
- 3) Partnering with IDOC to assess racial disparity in parole releases and revocations while on parole.

Jail data was made available to CJJP on a statewide level for CY 2019 - CY 2021. In 2022, CJJP began to review the jail data and assess data quality. 2021 and 2022 SAC grant funding will allow CJJP to assess the potential to regularly integrate updated jail data into its data warehouse, improve data quality, and use jail data to analyze pre-trial release outcomes. It is hoped that this will provide further insight into disparities within the criminal justice system.

In December 2021, CJJP met with the IDOC and provided additional data as a supplement to the 2021 prison forecast on the race of revoked probationers and parolees. Of the 1,153 probationers revoked in FY2021, 19.6% were Black. Of the 724 parolees revoked, 20.0% were Black.

#### System wide

System wide action items identified seek to broadly address individual, institutional, and environmental biases and factors contributing to racial disparities. The JAB identified three system wide items.

- 1) Evaluate racial bias and cultural competency training of school resource officers (SRO), law enforcement, court personnel, and correctional staff.
- 2) Identify institutional bias and develop strategies to create a more equitable system.
- 3) Include an assessment of the impact of COVID-19 on areas studied.

In 2021, Iowa Code §80B.11 established a requirement for annual implicit bias trainings for law enforcement. Racial bias and cultural competency trainings for other criminal and juvenile justice staff also have potential to reduce system wide biases and racial disparity. Training models should be assessed to determine the effectiveness, quality, availability, and routinely evaluated to verify their ongoing efficacy. Alongside training for individuals, efforts should be made to identify and remedy institutional bias. As noted in the 2021 CJJP literature review on the effectiveness of implicit bias training, experts have recommended that implicit bias training should be viewed as a component of larger efforts to reduce discrimination.

COVID-19 has had an impact across the justice system. The JAB believes it is important to study and assess the impact COVID-19 has in relation to existing racial disparities, in particular that of early releases and revocations.

### **THREE-YEAR GOAL: Eliminate disparities in excessive use of force and death in custody**

A number of national cases over the years resulting in violence and death by law enforcement against African American civilians has called for eliminating racial disparities in the use of force



during policing. According to the National Institute of Justice, there are different levels of force.<sup>19</sup> The “use” of force refers to the “amount of effort required by police to compel compliance by an unwilling subject.” The level of force needed in trying to get someone to comply varies depending on the officer and the given situation. There are no universal rules governing when force should be used and to what extent.

The Supreme Court has ruled all police use of force is governed by a standard of reasonableness, such as the seriousness of the crime, whether the suspect is resisting or attempting to flee, and whether they pose a threat to officers’ or others’ safety (*Graham v. Connor*, 490 U.S. 386 (1989)). The use of deadly force violates the Fourth Amendment, unless the suspect poses a deadly threat or serious harm to police officers (*Tennessee v. Garner*, 471 U.S. 1 (1985)).<sup>20</sup>

Iowa HF2647 (2020), amends and adds provisions relating to the certification, training, and prosecution of peace officers, and the use of chokeholds. The bill requires Iowa law enforcement officers to receive annual training in de-escalation and bias prevention; bans chokeholds with some exceptions; prevents the rehiring of police who were fired or quit because of misconduct; and allows the attorney general to prosecute officers whose actions result in death.<sup>21</sup>

The JAB proposes the establishment of a process and responsible entity to conduct the following immediate actions:

- 1) Define excessive force, and study and review best practices that reduce excessive use of force.
- 2) Examine use of force policies (e.g. rules or standards guiding police departments on when to use force and the process for investigating incidents where force was used by law enforcement) and recommend changes.
- 3) Identify standardized methods for collecting data. For example, the NIJ/FBI data does not make the distinction between excessive vs. appropriate use-of-force, as this is a politicized and contentious topic. Instead, use-of-force is characterized by the type and level of force (involving death, serious bodily injury, or the use of a firearm is considered serious).<sup>22</sup>

In 2022, CJP started reviewing different techniques and strategies to reduce the excessive use of force by police. The strategies identified include: implicit bias training, screening officer candidates, early intervention systems, promoting a culture of peer intervention, procedurally

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<sup>19</sup> National Institute of Justice. (2020). *Overview of Police Use of Force*. <https://nij.ojp.gov/topics/articles/overview-police-use-force>

<sup>20</sup> Schwartz, M. (2020). *How the Supreme Court Enables Police Excessive Force*. New York Law Journal. <https://www.law.com/newyorklawjournal/2020/06/05/how-the-supreme-court-enables-police-excessive-force/?slreturn=20200913105821>

<sup>21</sup> HF2647. <https://www.legis.iowa.gov/legislation/BillBook?ga=88&ba=hf2647>

<sup>22</sup> Federal Bureau of Investigation. National Use-of-Force Data Collection. <https://www.fbi.gov/services/cjis/ucr/use-of-force>

just policing training, body-worn cameras, de-escalation training, departmental policies, and demilitarize police departments.

There are several possible existing data sources that could be utilized to aid in collecting the data to analyze data, by race and gender, on “death in custody” and “use of force” by law enforcement and correctional officers.

- In January, 2019, the FBI began collecting nationwide data on police use of force from law enforcement agencies. It is collecting information on subjects and officers involved and details about the incident when use of force results in death, serious bodily injury, or discharge of a firearm at a person.<sup>23</sup>
- The Use of Force Project collects information on police policies from the largest 100 cities in the United States. It issued a report analyzing the effect of the type of policies on deadly incidents and maintains a policy database on its website.<sup>24</sup>
- News releases from jails and correctional facilities are issued when there is a death in custody.
- Internal investigations occur when police are involved in an incident where a weapon is used or death occurs.

Several state partners may be sought for assistance in collecting data including the Department of Corrections (IDOC), the Department of Public Safety (DPS), and the Office of Ombudsman.

#### **NEXT STEPS: Priority One**

In addition to the actions above, the JAB has identified further action steps going into the next year:

- The JAB is interested in locating additional race and ethnicity data as early in the criminal justice process as possible, along with utilizing this data to propose change. A possibility may include CJPJ conducting a project to assess how to accurately collect race and ethnicity data and examining which agencies collect this information, including the level of accessibility and barriers to obtaining the data.
- The JAB is also interested in obtaining data surrounding prosecutorial discretion and law enforcement crime statistics. Prosecutors may maintain information on how many cases are open and closed and the type of cases. Additionally, law enforcement may maintain arrest data with zip code information, which would be helpful in examining crimes within certain geographical areas of cities.
- The JAB would also like to research additional training opportunities, such as training for cultural issues that could be effective for different providers. CJPJ will research best practices in other states and provide suggestions for change to current training.

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<sup>23</sup> Ibid.

<sup>24</sup> Ibid.

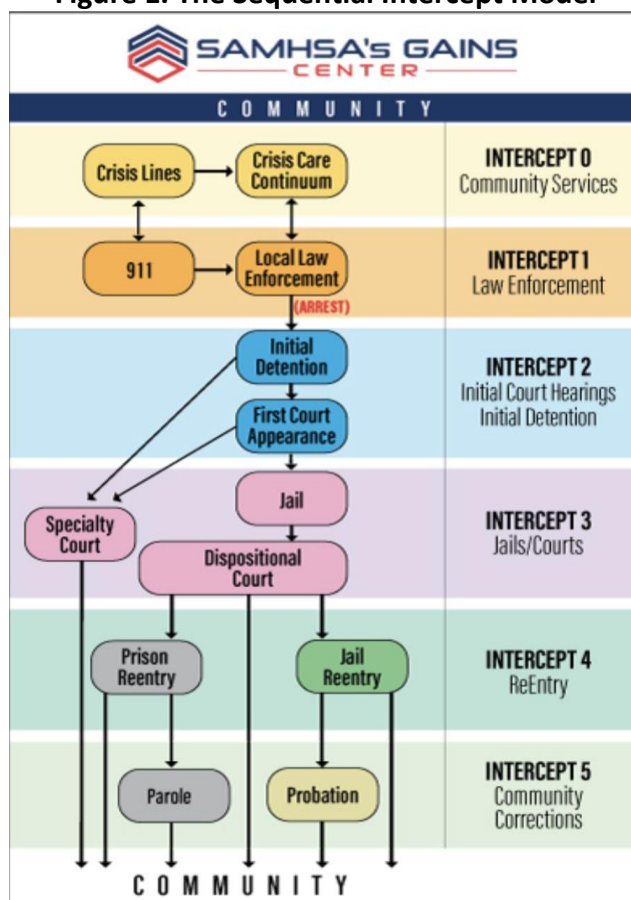
## Priority 2: Mental Health

The JAB has prioritized mental health in the criminal and juvenile justice system and is committed to take actions to achieve two goals:

- Identify offenders who need mental health care and provide appropriate services and placement in the juvenile and criminal justice system.
- Provide safe treatment and living conditions for those with mental health needs within the juvenile and criminal justice system.

The sequential intercept model is used in the criminal justice system to identify how people with mental health and substance use issues come into and move through the system. Each step in the model is an opportunity for intervention and can help communities identify resources or gaps in service.<sup>25</sup>

**Figure 1. The Sequential Intercept Model**



<sup>25</sup> U.S Department of Health & Human Services, Substance Abuse and Mental Health Services Administration. *The Sequential Intercept Model*. Retrieved from: <https://www.samhsa.gov/criminal-juvenile-justice/sim-overview>

For example, the LEAD (Law Enforcement Assisted Diversion) program in Seattle is a well-recognized diversion program for low-level drug crime, prostitution, and crimes associated with poverty. The program partners law enforcement with case managers who can provide immediate crisis response and psychosocial assessment, and services for substance use treatment and housing. “LEAD effectively disrupts the cycling of individuals with behavioral health issues through our criminal legal system and uses a low barrier, harm reduction-based model of care to help participants work toward achieving stability in the community.”<sup>26</sup> More information is needed to investigate if diversion models such as LEAD may be useful for law enforcement in responding to mental health crises.

Mental health services are needed at each point in the criminal and juvenile justice system continuum-- from the initial encounter to community reentry. Key services in the criminal justice system include:

- Tools for law enforcement to identify and respond to those with immediate mental health needs (e.g. crisis intervention).
- Diversion programs.
- Mental health courts.
- Appropriate living conditions and services in jails and prisons.
- Medication.
- Community resources.

More community resources are needed at the front end of the continuum to prevent entry into the criminal justice system and also at the back end to help those reentering the community be successful. The JAB has acknowledged that differences in community resources exist in the state and would like to study and compare rural and urban areas and mental health regions, which would include exploring tele-health and other online resources available to communities and how those might be better coordinated for individuals in (or at-risk of being in) the criminal and juvenile justice systems.

Each of the goals and actions are outlined in the table below and more information is provided in the following section of the report.

**Table 3: Summary of Mental Health Priority**

<b>Priority 2: Mental Health</b>
<b>Goal 1: Identify those who need mental health care and provide appropriate services and placement in the juvenile and criminal justice system for offenders.</b>
<b>Action Area – Law Enforcement</b>
<p>Action Item 1: Investigate tools that can be used by law enforcement to identify those with immediate mental health needs.</p> <p>Action Item 2: Investigate and evaluate any models that use partnerships between law enforcement and community mental health services, such as MPACT.</p>

<sup>26</sup>Law Enforcement Assisted Diversion (LEAD). <https://www.kingcounty.gov/depts/community-human-services/mental-health-substance-abuse/diversion-reentry-services/lead.aspx>

<i>Action Area – Pre-Charge Diversion</i>
Action Item 1: Study mental health diversion models for offenders to determine effectiveness.
<i>Action Area – Courts</i>
Action Item 1: Identify other states that are leading/effective in this field.
<i>Action Area - Telehealth</i>
Action Item 1: Study the efficacy of telehealth mental health and substance use disorder treatment.
Goal 2: Provide safe treatment and living conditions for those with mental health needs within the juvenile and criminal justice system.
<i>Action Area - Jails and Department of Corrections</i>
Action Item 1: Investigate methods and models for successful living conditions for those who need mental health care.
Action Item 2: Identifying methods and resources to ensure incarcerated individuals who need mental health medication receive it.
Action Item 3: Examine methods to capture medication use and expenditures in jails in compliance with HIPAA.
<i>Action Area – Community-Based Corrections</i>
Action Item 1: Identify and examine gaps and available community-based resources for offenders in need of mental health medications and/or services.

## Mental Health Implementation Activities

### **THREE-YEAR GOAL: Identify those who need mental health care and provide appropriate services and placement in the juvenile and criminal justice system**

#### Law enforcement

The JAB recognizes that opportunities exist to ensure those with mental health needs are appropriately identified and cared for during their initial encounter with law enforcement. The following actions are proposed:

- 1) Investigate tools that can be used by law enforcement to identify those with mental health problems.
- 2) Investigate and evaluate any models that use partnerships between law enforcement and community mental health.

The first step is proper identification (or diagnosis) of mental health needs. This could occur at any point in the sequential intercept model, but is best at the earlier stages, so that offenders with mental health needs are recognized and given appropriate services and placements as soon as possible. Law enforcement and others who work at the “front-end” need access to tools or screeners to help identify people who need mental health services. Similarly, screenings for drug users are needed to identify co-occurring disorders, where mental health is the primary driver of drug use.

The efforts can incorporate a range of emerging responses typically categorized as involving a type of case management or care coordination as a formal alternative to incarceration. Some of these are focused on mental health, some on substance use, and some incorporate both. A few examples in Iowa are mentioned in the sections of the report below.

Crisis Intervention Teams (CITs) and Crisis Response Teams (CRTs) are collaborative partnerships between law enforcement and community mental health providers. According to the National Alliance on Mental Illness (NAMI), these teams provide benefits to law enforcement by quickly and safely responding to situations, reducing arrests of people with mental illness, and providing appropriate services.<sup>27</sup> The JAB will identify CITs and CRTs to establish the geographic availability in Iowa and review the effectiveness of these existing approaches.

One model being utilized by police in a number of Iowa communities is similar to Marshalltown's MPACT, which helps police identify and respond to situations that include mental health issues. Through a partnership between the Marshalltown Police Department and YSS of Marshall County, police have access to social workers (Community Advocates) to help resolve mental and behavioral health calls. This program connects individuals and families to community social services when the police receive calls and a mental health crisis is identified. MPACT presented information about the program to the JAB in September 2021. The JAB supports the project as a strategy to address mental health needs and divert individuals to services instead of an arrest. JAB is also interested in collecting data from the program and conducting an evaluation of its outcomes.

The city of Ames is starting a similar program, called ARCH (Alternative Responses for Community Health). The goal of the program is to help people in crisis get the help they need. The calls the team responds to are for people experiencing mental health crisis, homelessness and food insecurity. The program was started by Mary Greeley Medical Center, Ames Police Department and Iowa State University Police Department. People in need will still call 911, and the dispatch will decide whether an officer is best suited to respond to that call or if the ARCH team should be sent. The ARCH team consists of a paramedic and a social worker. Currently, the program operates 40 hours per week, with its effectiveness being monitored and program benefits to be assessed at the end of a 6 month trial period.

Further, Des Moines Police Department works with Broadlawns Medical Center behavioral health team to coordinate appropriate responses. The Polk County Sheriff's Office deploys a team of deputies on certain mental health calls. There might also be other initiatives, such as new community outreach officer positions involving mental health coordination as a responsibility.

Iowa Code Section §331.397 established access centers in Iowa to provide short-term

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<sup>27</sup> U.S Department of Health & Human Services, Substance Abuse and Mental Health Services Administration. Crisis Intervention Team (CIT) Programs. [https://www.nami.org/Advocacy/Crisis-Intervention/Crisis-Intervention-Team-\(CIT\)-Programs](https://www.nami.org/Advocacy/Crisis-Intervention/Crisis-Intervention-Team-(CIT)-Programs)

assistance to Iowans in crisis situations.<sup>28</sup> The bill stated that centers should provide detoxification and crisis observation as well as stabilization services.<sup>29</sup> Increased capacity and availability would allow those in need of these services to be triaged here for treatment instead of entering the criminal justice system.

The JAB members indicated that there are seven access centers in Iowa, each being at a different stage of development. Many of these access centers are challenged and not well known. Although the access centers are valuable, and have a great potential to become a central part of response to mental health issues among Iowans, they are still in their infancy stage. JAB members noted that it would be useful to know where these access centers are and if anyone collects/collected the data on them, so that information can be shared with legislators.

Other models from other states will be reviewed and studied. Resources and strategies to examine include:

- Tele-health.
- In-patient treatment prior to arrest.
- Hiring social workers to accompany police officers, CITs and CRTs.

In March 2022, CJJP staff conducted a survey of law enforcement agencies across the state and presented the findings to the JAB. The survey asked agencies about the frequency of mental health calls, existing response strategies they use, training on crisis intervention, partnerships with mental health providers, and the need for additional resources. 46.4% of Iowa's law enforcement agencies (174/375) completed the survey. The survey found that 66.1% of agencies reported responding to calls where someone is often, very often, or always in a mental health crisis. There were many differences in the ways law enforcement responds to and handles mental health crises across the state. While some agencies report utilizing Crisis Intervention/Mobile Response Teams (24.4%), the vast majority reported that they often, very often, or always deal with the person in crisis themselves and/or transport to the hospital (54% and 71%, respectively).

#### Pre-Charge Diversion

The JAB will review and study the effectiveness and implementation process of diversion models for offenders with mental illness, which include programs in Iowa. The establishment of effective pre-charge diversion programs will divert individuals from entering the criminal and juvenile justice systems and provide treatment for the issues affecting each person.

The Office of Drug Control Policy (ODCP) is partnering with three counties (Jones, Black Hawk, and Story) and are piloting pre-charge diversion programs for low level drug offenders. The project was recently awarded approval by the Bureau of Justice Assistance to receive a one-

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<sup>28</sup> <https://www.legis.iowa.gov/docs/code/331.397.pdf>

<sup>29</sup> <https://www.thegazette.com/article/iowas-mental-health-access-centers-another-tool-to-help-those-in-crisis/>

year extension through September 2023. This will allow the project to serve additional clients. CJJP is conducting the evaluation for the project.

The JAB members suggested that an inventory on pre-jail and other forms of diversions would be helpful to understand what is being done and what works. The members noted that pre-jail diversion can be promoted in various ways with the law enforcement, first responder assisted, mental health correspondence, etc.

### Specialty Courts

Mental health courts are an alternative for individuals with mental health needs in place of more traditional court services. The JAB proposed to inventory existing specialty court models specifically for people with mental health needs and examine the effectiveness of these models and any national standards for these courts.

In 2021, there were four Mental Health Courts in Iowa. A review of each model will assist in determining effectiveness, uniformity of processes, and availability of services. Dr. Eric Howard, Problem-Solving Courts Coordinator for the Judicial Branch, has presented to the JAB on problem-solving courts, including mental health courts. Formal standards for the adult criminal drug courts were developed recently, with guidance developed by the National Association of Drug Court Professionals, and the National Center for State Courts.

With the assistance of a federal grant awarded to the Governor's Office of Drug Control Policy, CJJP evaluated drug courts with "enhanced" mental health services. It found that "enhanced" drug courts were limited in their capacity to serve offenders with severe mental illness, but the mental health services available were generally regarded by staff as being beneficial to the court and offenders, especially given limited community mental health resources. "Enhanced" drug court participants fared better than a matched group of drug probationers and a historical comparison group of drug court offenders on measures of recidivism (new convictions) within a three-year follow up period.<sup>30</sup> The program ended in 2016.

There are several states that have specialty courts. For example, Nebraska works with the military, families, substance use, etc. It would be useful to study these models and determine whether they can be replicated in Iowa to provide help to people with mental health needs.

The status of mental health courts needs to be checked. An action item the JAB members proposed for this area is monitoring the efficacy of mental health courts. Members noted it would be worth exploring the possibility of having state appropriations for these.

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<sup>30</sup> Davidson, C. (2016). *Evaluation of the Statewide "Enhanced" Drug Courts Offering Mental Health Services for Substance Abusing Offenders in Iowa*.

[https://humanrights.iowa.gov/sites/default/files/media/CJJP\\_Enhanced\\_Drug\\_Court\\_Report.pdf](https://humanrights.iowa.gov/sites/default/files/media/CJJP_Enhanced_Drug_Court_Report.pdf)



### Telehealth

The JAB members indicated the need to study the efficacy of telehealth mental health and substance use disorder treatment. The research team needs to identify ways on how the area of telehealth can be moved forward.

## **THREE-YEAR GOAL: Provide safe treatment and living conditions for those with mental health needs within the juvenile and criminal justice system**

### Jails and Department of Corrections

For mentally ill offenders at the “back end” who are already serving time for their crime, the JAB’s goal is for jails and prisons to provide safe treatment and living conditions. The board intends to gather more information on effective housing for and treatment of offenders with mental health problems by taking the following actions:

- 1) Investigate methods and models for successful living conditions for those who need mental health care.
- 2) Identify methods and resources to ensure incarcerated individuals receive the mental health medications needed.
- 3) Examine methods to capture medication use and expenditures in jails in compliance with the Health Insurance Portability and Accountability Act (HIPAA).

A literature review of best practices for housing inmates with mental health issues should be conducted. For example, the efficacy of having separate living quarters for inmates who need mental health services within a jail or prison. Current prison and jail programs for offenders with mental health issues should be inventoried. Also, investigating the use of certain practices, such as solitary confinement (extended social isolation), for those who suffer from mental illness is warranted. Research has shown that the use of solitary confinement not only has adverse psychological and physical effects on inmates, but can actually exacerbate mental health problems.<sup>31</sup>

Finally, studying inmate medication use and costs could be explored. The IDOC has policies for medication administration and compliance for traditional offenders and civilly committed psychiatric offenders. Iowa Administrative Code §201.50.15, subsections 7 through 9, outlines procedures for medication management by jail staff.<sup>32</sup>

### Community-Based Corrections

For offenders living in the community, mental health services are vital to ensure they are successful. In order to determine the gap of services in communities, the JAB will:

- 1) Identify and examine affordable and accessible prescription drug programs and mental health treatment resources available for offenders living in the community.

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<sup>31</sup>Medical New Today. *What are the effects of solitary confinement on health?*

<https://www.medicalnewstoday.com/articles/solitary-confinement-effects#mental-health-effects>

<sup>32</sup> Iowa Code Chapter 50 <https://www.legis.iowa.gov/docs/iac/rule/08-29-2018.201.50.15.pdf>.

This action encompasses mental health resources available to all populations in the community who are at risk of entering the criminal justice system, including individuals experiencing homelessness, probationers, and parolees.

Medications can be covered by Medicaid for those who are eligible. “Medicaid is a combined state and federal program that provides health coverage to people with low income, including those who are unable to work because of a mental health disability.”<sup>33</sup> However by law, Medicaid does not cover services provided to people while in jail or prison. Offenders released from IDOC institutions are provided a short supply of medication, which can be extended if applicable through a partnership with SafeNetRx. IDOC policy states:

*All patients leaving the institution for discharge of sentence, parole, parole furlough, shock probation, work release, OWI facilities, residential care facilities, etc., will be given an appropriate supply of medication, as determined by the IDOC’s licensed medical practitioners, not to exceed a 30-day supply. If specified, the patient’s prescription information may also include instructions on how to have 2 additional refills, good for 90 days from the patient’s date of release, transferred to a community pharmacy of the patient’s choosing. Mental health medications may be obtained at no cost from the SafeNetRX pharmacy; all other medications must be paid for by the patient. If the medication order expires prior to 30 days from the date of departure, the quantity of medication dispensed will be sufficient to last until the expiration date of the medication order. Prescriptions for controlled substances will not be transferrable or refillable.*<sup>34</sup>

Jails in some counties have programs to pay for 30 days of medication. The JAB is interested in investigating this further to see which counties provide medication. Also of interest, is taking inventory of available community resources and identifying gaps for incarcerated and recently released offenders needing mental health services and medication and identifying points of contact in the counties through local National Alliance on Mental Illness (NAMI) organizations and other agencies.

### **NEXT STEPS: Priority Two**

Although progress has been made on mental health, more work is needed. The JAB identified multiple areas in which the knowledge can be expanded. The JAB identified some steps and actions going forward to reach the goals.

#### **1. Mental Health**

- Study current and future mental health needs versus service capacity in Iowa.
  - Because there is variation in services being offered across the counties, JAB suggested exploring the gaps in mental health capacity as well as

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<sup>33</sup>Resources to Recover. Mental Health Resources in Iowa. <https://www.rtor.org/directory/mental-health-resources-in-iowa/>

<sup>34</sup> State of Iowa Department of Corrections, Policy and Procedures, Chapter 6 Health Services, HSP-504. [https://doc.iowa.gov/sites/default/files/hsp-504\\_exit\\_health\\_consultation\\_0.pdf](https://doc.iowa.gov/sites/default/files/hsp-504_exit_health_consultation_0.pdf)

variations in services offered and services needed across counties.

- Identify community mental health partners, where they are, and what services are provided.
- Identify agencies that provide services to determine barriers they face and how things could be improved.
- Incorporate and make better use of risk and needs assessment. It would be useful to know how risk and needs assessments are being used to determine referrals in Iowa. Further, JAB recommends inventorying individuals with mental health issues to assess their needs and outcomes (whether needs are being met).

## 2. Law Enforcement

- Expand crisis intervention training and operations among law enforcement.
- Identify models law enforcement agencies utilize when answering calls for mental health crises. In addition, explore funding sources to evaluate the effectiveness of these models, including MPACT and ARCH and other similar programs.

## 3. Pre-charge Diversion

- There is an increased interest in diversion and need for more training and understanding around it in communities. It can include problem-solving courts as a form of back-end diversion.
- Inventory what activities are taking place for pre-jail and other forms of diversion to get a better picture of what is being done and what still needs to be done.
- Track results on access centers, where they are established, and what services they provide would be useful. Sharing this information with legislators is important to potentially help guide decisions on whether to allocate more funding for access centers.
  - OJP is starting to work on this. Educating JAB members on their efforts is needed.
- Promote continued development of and sustainable funding for Iowa Mental Health and Substance Use Access Centers.
- The ODCP is working with Drake University on an annual Iowa pre-jail diversion/deflection census, and can collaborate with CJJP on findings.
- Track results on existing access centers and study national models.
  - CJJP will contact the federal Department of Justice (DOJ), Office of Justice Programs (OJP) to access information for JAB members.

## 4. Courts

- Update data on the outcomes and effectiveness of specialty courts and explore expansion of effective models.
- Investigate if there are state appropriations for funding and studying the efficacy of mental health courts within the Judicial Branch.
- Explore models used in other states to determine whether they can be replicated in Iowa to help people with mental health needs.

## 5. Jails and Department of Corrections

- Conduct a census of projects providing alternatives to incarceration that are used in Iowa that address mental health.

- Review payment processes for medications for prisoners throughout Iowa.
- Review and study the provision of mental health medication post-release beyond 30 days. Make recommendations on how to best help people continue their medications and successfully transition to the community.

6. Telehealth

- Study the efficacy of telehealth mental health and substance use disorder treatment, especially in rural areas in Iowa.

JAB recognizes that it will require concerted efforts to obtain information on some of the items identified above and assistance from several state partners to collect data on mental health. There are several state partners that may be able to provide assistance in collecting data on mental health, including the Iowa Department of Corrections, the Iowa Behavioral Health Association, and County Public Health Departments.

## Priority 3: Community-based Corrections (CBC) and Alternatives to Incarceration

The United States continues to have the highest incarceration rate in the world despite decades of decreasing crime rates. In Iowa, the increasing prison population in the early 1990's sparked the development of the Prison Population Forecast by CJJP and subsequent annual releases of the report because of sustained overcrowding. The JAB supports efforts to limit the reliance on incarceration without compromising public safety. The board has identified community-based corrections and alternatives to incarceration as a priority. Four goals and actions are outlined in the following table and more information is provided in the following section of the report.

**Table 4: Summary of Community-based Corrections and Alternatives to Incarceration**

<b>Priority Three: Community-based corrections and alternatives to incarceration</b>
<b>Goal 1: Reduce entry to prison.</b>
<p>Action Item 1: Analyze IDOC funding and structure to ensure it reflects the priorities of the corrections system for both prison and CBC.</p> <p>Action Item 2: Compare Parole release by county/district and identify any differences. Identify opportunities for quicker release, such as housing and transportation availability, so that individuals can be released as soon as they are eligible.</p> <p>Action Item 3: Examine alternative methods such as transformative or restorative justice.</p> <p>Action Item 4: Advocate and support programs that provide alternatives to incarceration, such as drug courts and police partnerships with social workers and mental health professionals.</p> <p>Action Item 5: Investigate using a merit-based probation system, rather than one based on serving time and paying all fees and fines.</p> <p>Action Item 6: Utilize technology and decision-matrices to help the Board of Parole and Department of Corrections make decisions regarding the supervision of individuals.</p>
<b>Goal 2: Reduce revocations to prison.</b>
<p>Action Item 1: Examine the types of interventions that have demonstrated decreases in revocations.</p> <p>Action Item 2: Understand needs of offenders and how those needs can be met from their viewpoint.</p> <p>Action Item 3: Study results of and obtain data from the Board of Parole's "Community success program."</p> <p>Action Item 4: Evaluate risk assessment to determine if there's racial bias and its effectiveness.</p> <p>Action Item 5: Examine workforce opportunities and apprenticeship programs for prisoners and current legislation to provide employment opportunities for current and former prisoners.</p> <p>Action Item 6: Examine the effectiveness of the Violators Program and other programs that could be used as an alternative to revocation.</p> <p>Action Item 7: Collect data to understand why and when revocations usually happen to better understand if they are effective in deterring or preventing new crimes.</p>
<b>Goal 3: Increase the use of effective treatment courts.</b>
<p>Action Item 1: Study different models and effectiveness of different types of treatment courts.</p> <p>Action Item 2: Examine the funding sources for different types of treatment courts.</p>
<b>Goal 4: Document lessons learned from COVID-19.</b>
<p>Action Item 1: Study the impact of COVID-19 on jail and prison numbers and any association with crime/public safety.</p> <p>Action Item 2: Identify changes made in the criminal justice system during COVID-19 and any lessons learned.</p>

## **Community-Based Corrections and Alternatives to Incarceration Implementation Activities**

### **THREE-YEAR GOAL: Reduce entry to prison**

To reduce offenders from entering prison, JAB will:

1. Analyze IDOC funding and structure to ensure it reflects the priorities of the corrections system for both prison and CBC.
2. Compare parole release by county/district and identify any differences. Identify opportunities for earlier release, such as availability of housing, jobs, and transportation, when delays are due to the lack of these resources.
3. Examine alternative methods such as transformative or restorative justice.
4. Advocate and support programs that provide alternatives to incarceration, such as drug courts and police partnerships with social workers and mental health professionals.
5. Investigate using a merit-based probation system, rather than one based on serving time and paying all fees and fines.
6. Utilize technology and decision-matrices to assist the Board of Parole and Department of Corrections make decisions regarding the supervision of individuals.

### **THREE-YEAR GOAL: Reduce revocations to prison**

Reducing admissions to prison due to revocations is another avenue to reduce the prison population. The FY2022 Prison Population Forecast reported Iowa's prisons were 17.7% overcapacity. The report notes that between FY 2013 to 2022 the number of parole returns to prison decreased by 23.4%, which is attributable in part to policies implemented by the IDOC to rigorously review cases and consider alternatives before issuing a revocation decision.<sup>35</sup>

The JAB is particularly interested in which interventions and programs are successful in decreasing revocations. The board has proposed the following action items to determine effective ways to reduce revocations to prison.

1. Examine the types of interventions that have demonstrated decreases in revocations.
2. Understand needs of offenders and how those needs can be met from their viewpoint.
3. Study results of and obtain data from the Board of Parole's "Community success program."
4. Evaluate risk assessment to determine if there's racial bias and its effectiveness.
5. Examine workforce opportunities and apprenticeship programs for prisoners and develop employment opportunities for current and former prisoners.
6. Examine the effectiveness of the Violators Program and other programs that could be used as an alternative to revocation.
7. Collect data to understand if revocations are effective in deterring or preventing new crimes.

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<sup>35</sup> TenNapel, M., & Yates, C. (2022). Iowa Prison-Population Forecast FY 2022 - FY 2032.

CJJP is currently partnering with the IDOC, the Urban Institute, and Arnold Ventures on the Prison Research and Innovation Network (PRIN). PRIN is a group of 5 states, working to establish a model of transparency, accountability, and innovation within prisons. This is a five year project that aims to capture changes in incarcerated individuals' and staffs' perceptions of living and working conditions at ICIW. The purpose of the PRIN is not only to better understand prison environments, but also to design, implement, and evaluate evidence-based programs and policies to improve conditions for individuals incarcerated and working in prisons. PRIN uses participatory research, realizing that those working and living in the prison are the ones who can identify issues and the best to propose solutions to improve conditions. A key part of this project is conducting a survey with both incarcerated people and staff to understand their experiences at the Iowa Correctional Institution for Women (ICIW). A survey was developed through interviews and focus groups conducted with staff and incarcerated individuals. CJJP asked staff to identify which questions/results they felt were most important for CJJP to highlight with ICIW and IDOC leadership. A summary of the top 10 most important questions, organized by domain, was created. Next, CJJP asked staff and incarcerated individuals to suggest innovations for each of the areas to improve the culture and working conditions at ICIW. The top areas identified and suggested innovations were presented on July 21, 2022 at the Executive Committee meeting.

#### TOP 10 AREAS IDENTIFIED BY STAFF FROM THE SURVEY

- Area #1: Burnout is common among staff at this prison.
- Area #2: Mandated overtime affects my well-being.
- Area #3: Staff are able to take time off when needed.
- Area #4: There are enough officers for each unit.
- Area #5: My coworkers show signs of stress.
- Area #6: I have opportunities for promotion.
- Area #7: Promotions are due to good job performance.
- Area #8: This prison's policies and practices support staff well-being.
- Area #9: I think relationships among staff are healthy and professional.
- Area 10: This prison does a good job preparing incarcerated people for release.

#### TOP 10 AREAS IDENTIFIED BY INCARCERATED PEOPLE FROM THE SURVEY

- Area #1: The prison should offer activities that promote certifications and developing skills.
- Area #2: More family activities/events should be made available for incarcerated people.
- Area #3: My general health care needs are addressed in this prison.
- Area #4: The Board of Parole treats incarcerated people fairly.
- Area #5: It is important to have video visits along with in-person visits.
- Area #6: The lack of programs and activities in this prison affects my personal growth.
- Area #7: I feel prepared to get a job upon release.
- Area #8: The rules are applied the same for all incarcerated people.
- Area #9: The Board of Parole makes consistent and transparent decisions.
- Area 10: I believe that this prison needs more programs that prepare for reentry.

The CJJP team aims to conduct a second round of surveys in late January/early February 2023

with both the incarcerated individuals and staff at ICIW. Upon the IRB approval, expected in December 2022, the team will conduct surveys on-site with both populations.

## **Apprenticeship Project**

In July 2022, CJPJ completed an evaluation on prison-based apprenticeship programs through the IDOC to assist individuals to prepare for their return to the community. This study examined 1,414 individuals who enrolled in the Iowa Department of Corrections (IDOC) apprenticeship programs from their inception.

The report found that those who completed an apprenticeship had more positive outcomes compared to those who didn't complete it or were part of the general prison population.

Completers had:

- Lower recidivism rates within 3 years (*19.7%, compared to 39.0% for non-completers and 38.7% for the FY2021 general population.*)
- Higher employment rate (*Quarter 1 employment rate was 71.4% for those who completed, 68.1% for non-completers, and 50.3% for the FY2018 general population. These differences were consistent over time. Quarter 4 and 8 employment rates were 70.8% and 64% for completers, 54.8% and 47% for non-completers, and 37.4% and 32.1% for the FY2018 general population).*)
- Higher wages (*adjusted wage per quarter for quarter 1 was \$7,709 for completers, \$6,107 for non-completers, and \$4,631 for the FY2018 general population. All 3 groups saw a steady increase over time with the completers earning an adjusted wage of \$9,686 in quarter 8 post-release, \$7,501 for non-completers and \$5,766 for the FY2018 released population).*)

Potential reasons for non-completion identified by this study included length of stay (LOS) and transfer of institution. Shorter length of stays and transferring institutions contribute to individuals not being at the institution long enough to be able to complete the apprenticeship program.

This study also conducted surveys on apprenticeship sponsors and other individuals who work closely with apprentices (counselors, IPI supervisors, treatment directors, and unit managers). In addition to capturing their workload involved in the apprenticeship program, they also identified strategies, such as hiring additional Iowa Workforce Development staff, for potential expansion.

## **Recommendations**

1. Identify strategies to increase apprenticeship completion rate.
2. Evaluate methods to increase capacity of apprenticeship enrollment from the staff perspective.
3. Expand capacity of apprenticeship opportunities at institutions to increase the number of incarcerated individuals to enroll and participate.
4. Explore an apprenticeship path for incarcerated individuals entering the system.
5. Identification of incarcerated individuals who are qualified and prepared for



enrollment.

CJJP is continuing the evaluation, focusing on the motivational factors of incarcerated individuals who enroll and complete the apprenticeship programs, as well as the barriers experienced by those who discontinue or choose not to enroll. The goal of this work is to assist IDOC in identifying who may benefit from apprenticeship programs and help alleviate the barriers that keep some incarcerated individuals from completing and/or enrolling. The IRB meeting is scheduled for December 15<sup>th</sup>, 2022. Upon the IRB approval, the CJJP research team will conduct focus groups with the incarcerated individuals to inform the development of the survey.

### **THREE-YEAR GOAL: Increase the use of effective treatment courts**

Treatment courts seek to divert individuals with substance abuse or other issues from prison or jail into treatment. It is widely held that these courts can be effective and cost efficient.<sup>36</sup> In 2021, Iowa had nearly 40 specialty treatment courts across the state focusing on adult drug and/or OWI, juvenile drug, mental health, family, and veterans.

**Table 5. Number and Type of Specialty Treatment Courts in 2021<sup>37</sup>**

<b>Court Type</b>	<b>N</b>
Family Treatment Court	12
Adult Criminal Drug Court	12
Juvenile Drug Court	5
Mental Health Court	4
Adult Hybrid OWI/Drug Court	3
Veterans Treatment Court	1
<b>Total</b>	<b>37</b>

A study of the effectiveness of Iowa's specialty courts was mandated by HF2492.<sup>38</sup> The study conducted by the National Center for State Courts concluded it was not currently feasible to conduct a study on the effectiveness of Iowa drug courts due to the reporting timeline and because Iowa drug courts are not generally in good compliance with the national drug court model. The report provided an overview of Iowa treatment courts, recommendations for improvement, and future research.<sup>39</sup>

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<sup>36</sup> National Center for State Courts (2018). *The State of Specialty Treatment Courts in Iowa: Opportunities for Enhancement and Suggestions for Research*. p. 15. <https://www.legis.iowa.gov/docs/publications/DF/1033936.pdf>

<sup>37</sup> Data provided by Eric Howard, Statewide Problem Solving Court Coordinator, via e-mail on June 15, 2021.

<sup>38</sup> HF2492 <https://www.legis.iowa.gov/docs/publications/LGE/87/HF2492.pdf>

<sup>39</sup> National Center for State Courts (2018). *The State of Specialty Treatment Courts in Iowa: Opportunities for Enhancement and Suggestions for Research*. <https://www.legis.iowa.gov/docs/publications/DF/1033936.pdf>

Since then, the Iowa Judicial Branch received a grant from the federal Bureau of Justice Assistance to achieve some of the recommendations. A report based on Iowa's standardization efforts was recently released in August 2021 by the National Center for State Courts (NCSC). The comprehensive report was a collaborative effort between NCSC, the Iowa Judicial Branch, and districts operating problem solving courts across the state. Iowa's Statewide Problem Solving Court Coordinator presented on the findings and the status of the court standardization process at the September 2021 JAB meeting. Recommendations for standards at each point throughout the program from initial selection of clients to the exit of clients were provided.<sup>40</sup>

The JAB will monitor progress made by these efforts and review any findings obtained by the Judicial Branch, in particular those that:

- 1) Study different models and effectiveness of different types of treatment courts.
- 2) Examine the funding sources for different types of treatment courts.

### **THREE-YEAR GOAL: Document lessons learned from COVID-19**

The impact of COVID-19 has had consequences across the justice system including releases of individuals in jails and a decrease in admissions (due to a slowed criminal court system), and releases of individuals from prison. The JAB believes it is important to understand the impact and long-term effects of these practices. CJJP will assist the JAB to:

- 1) Study the impact of COVID-19 on jail and prison numbers and any association with crime/public safety.
- 2) Identify changes made in the criminal justice system during COVID-19 and any lessons learned.

CJJP's 2020 prison population forecast captured the COVID pandemic's impact on the prison and community-based corrections (CBC) populations. There were 7,569 prisoners in 2020, which was the lowest prison population observed in the last two decades. There was a 10.6% decrease in the 2020 prison population compared to the year prior to the pandemic. Also, probation revocations decreased 17.3% and non-probation revocations decreased 5.3%. Pandemic-related policies and practices by courts, IDOC, and the Board of Parole directly contributed to these changes, by helping to reduce new admissions to prison, improving release planning efforts, and facilitating release from prison when possible.<sup>41</sup>

The 2021 prison population forecast showed only a slight increase in the total prison population; there were 7,743 inmates by the end of SFY2021. However, the number of prison admissions (both new and return) and the number of prison releases decreased from FY 2020

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<sup>40</sup> National Center for State Courts (2021). *Iowa Judicial Branch: Adult Criminal Drug Treatment Court Standards*. Report available upon request.

<sup>41</sup> TenNapel, M., Berta, M. & Roeder-Grubb, L (2020). *Iowa Prison-Population Forecast FY 2020 - FY 2030*. <https://humanrights.iowa.gov/sites/default/files/media/2020%20Iowa%20Prison%20Population%20Forecast.pdf>

to FY 2021. Also, community based corrections populations on both parole and probation had decreased from the following year. Efforts were made during the pandemic by corrections and the parole board to reduce revocation among community based populations and accelerate prison release when appropriate. Another contributing factor was the backlog of cases being processed in court.<sup>42</sup>

Some identified changes that were put into place during the COVID-19 pandemic included:

*Court Trials:* Postponement of jury trials; teleconferencing permitted for some cases (first appearances, sentencing, civil court, and family court) to minimize in-person contact.

*Pausing Prison Admissions:* Iowa Medical and Classification Center (IMCC), the IDOC's intake facility, suspended prison admissions during the height of the pandemic.

*Identifying the Best Candidates for Release Consideration:* "Release Candidate" dashboard assisted correctional officials in identifying individuals who were most appropriate for release consideration.

*Technology to Monitor COVID-19:* The IDOC also created a Medical Management dashboard to help better identify, track and report COVID-19 related statistics including virus test results, inmate results, and vaccination records. They created data exchanges allowing for integration of COVID-19 testing and test results at their facilities.

*Development of a Mitigation Policies and Practices:* The IDOC worked cross-collaboratively with the public health department during the pandemic, seeking guidance and direction on policies and practices.

*BOP Enhanced Review Efforts to Accelerate Release when Appropriate:* BOP conducted double panels to review cases proposed for parole and work release consideration. This increased the volume at which appropriate individuals were reviewed. Additionally, BOP worked with the IDOC to have staff initiate reviews of certain incarcerated individuals, for those deemed vulnerable to COVID-19.

*Community-Based Corrections Population Management and Public Safety Strategies:* During the height of the pandemic, interim supervision strategies were developed for individuals under community-based supervision. In an attempt to reduce the risk of viral transmission, the goal was to limit arrests, technical revocations, and subsequent incarceration to only what was necessary for public safety.

### **NEXT STEPS: Priority Three**

Although progress has been made on community-based corrections and alternatives to incarceration, more work is needed. The JAB identified action steps to gather more information

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<sup>42</sup> TenNapel, M., Yates, C., & Roeder-Grubb, L (2021). *Iowa Prison-Population Forecast FY 2021 - FY 2031*. <https://humanrights.iowa.gov/sites/default/files/media/2021%20Iowa%20Prison%20Population%20Forecast.pdf>

regarding parole, probation, and revocation.

1. Parole

- Variations can exist across CBC districts in policies and practices for discharging people on parole. These differences should be identified and data collected to determine effectiveness. The availability for housing, inpatient beds, and residential treatment facilities should also be compared in different areas of the state. Developing more consistency across CBC districts in policies, practices, and training, will lead to standardized effective approaches. In addition, explore utilization of decision-making software that could help the Board of Parole make decisions more standardized.

2. Probation

- Iowa Code requires people on probation to pay all fees, court costs, and victim restitution before being eligible for early discharge. It is difficult for some people to pay, and this can affect their motivation to cooperate with probation if they know they will not be able to be released early due to their finances. Merit-based discharge should be studied that would allow quicker release from probation based on progress.

3. Revocation

- Revocations may serve a role in deterring new crimes from occurring, when used effectively. More data should be collected to identify who is being revoked, including the number of people revoked, the timing of revocation, and the violations that lead up to revocation.
- Alternatives to revocations should be available. Information should be gathered on the effectiveness of Violator Programs, as an “intermediate” avenue in place of revocation.
- Developing tools to assist IDOC staff make decisions regarding revocations, such as an action matrix or guide for Probation/Parole Officers to identify the appropriateness of alternatives and the need to revoke an individual. Using IDOC’s Early Alert System to identify ways to intervene before a person does something that leads to revocation can help with prevention.

## Priority 4: Sex Offenders

Sex offenses are serious crimes that can have long-term effects on victims. Unfortunately, estimates of sexual violence are high. The Center for Disease Control and Prevention reports nearly one in five women and one in 38 men have experienced completed or attempted rape during their lifetime.<sup>43</sup>

The JAB has identified sex offenders as a priority and is committed to take actions to achieve four goals:

- Examine the effectiveness of the special sentence.
- Examine technical violations.
- Examine the efficacy of sex offender residency restrictions.
- Support survivors/victims.

Each of the goals and actions are outlined in the table below, and more information is provided in the following section of the report.

**Table 6: Summary of Sex Offenders Priority**

<b>Priority Four: Sex Offenders</b>
<b>Goal 1: Examine the effectiveness of the special sentence.</b>
Action Item 1: Determine if the special sentence reduces sex offending.
Action item 2: Determine if the sentence or duration is appropriate for all cases.
Action Item 3: Educate others on sex offenders' outcomes and the effectiveness of current policies.
<b>Goal 2: Examine technical violations.</b>
Action Item 1: Gather information on types of technical violations accrued by sex offenders and which violations result in revocation to prison.
<b>Goal 3: Examine the efficacy of sex offender residency restrictions.</b>
Action Item 1: Determine if residency restrictions reduce sex offending.
<b>Goal 4: Support survivors/victims.</b>
Action Item 1: Support survivors and victims of sexual abuse.
Action Item 2: Examine the appropriateness of restorative justice.
Action Item 3: Collaborate with the Iowa Crime Victim Assistance Division (CVAD) to study effectiveness of services to support victims.

### Sex Offender Implementation Activities

#### **THREE-YEAR GOAL: Examine the effectiveness of the special sentence**

In 2005, Iowa passed legislation that increased penalties for certain sex offenses and created “special sentences” for individuals convicted of a sex offense under Iowa Code §709, §726.2,

<sup>43</sup> Center for Disease Control and Prevention. Injury Prevention & Control.  
<https://www.cdc.gov/injury/features/sexual-violence/index.html>

and §728.12 (1), (2), or (3). The special sentence places offenders on either 10-year or lifetime community supervision after the completion of their original sentences. Offenders convicted of A, B, and C felony sex offenses are placed on lifetime community supervision while those with D felony, serious misdemeanor, and aggravated misdemeanor convictions are placed on 10-year supervision.<sup>44</sup> The purpose of the special sentence was to reduce future victimization through extended supervision and monitoring of this population.

An analysis of the special sentence by CJP in 2015 found no significant differences in new sex offense convictions between a sample group of those serving a special sentence and a pre-special sentence cohort. However, the findings showed the special sentence group had lower rates of new convictions than the comparison group.<sup>45</sup> These findings led the PSAB and SORC to make recommendations to modify Iowa's special sentence by allowing the court to determine if an offender could be removed from special sentence supervision based on an evidentiary hearing.<sup>46</sup>

A longitudinal study on the efficacy of the special sentence was completed by CJP in May 2021 and findings were presented at the May 2021 JAB meeting. The study examined outcomes for the original (2014) two sample groups and tracked recidivism for a longer 9-year period of time. Rates of reconviction for sex crimes did not change much given a longer tracking time. Only 4% of sex offenders had a new sex conviction within 9 years of being placed in the community on special sentence supervision; however, 51.9% of them returned to prison during time period, largely due to technical violations (not new offenses).<sup>47</sup> No specific recommendations were made by the JAB in light of the report, but discussion included how to better educate legislators and share findings to help them make evidence-based decisions, reexamination of the criteria to allow an early discharge or removal from the special sentence, closer examination of the reasons for technical violations, and obstacles sex offenders face in the community.

CJP received SAC grant funding in January 2022 to study a more recent, larger group of special sentence sex offenders. A cohort of 1,468 individuals who began the special sentence on or before March 30, 2020 has been identified. The cohort is more representative of sex offenders serving sentences for more serious crimes that carry the lifetime special sentence. Their outcomes, including any new convictions, new sex convictions, prison returns, and reasons for technical violations will be tracked for a minimum of two years. The study will seek to identify additional factors that could help predict who is most likely to commit new sex crimes, including risk assessment tools, demographics, and characteristics of the original sex offense.

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<sup>44</sup> Iowa Code Chapter 903B <https://www.legis.iowa.gov/docs/ico/chapter/903B.pdf>

<sup>45</sup> Johnson, S. & Davidson, C. (2015). *An Analysis of the Sex Offender Special Sentence in Iowa*. [https://humanrights.iowa.gov/sites/default/files/media/CJP\\_2015%20SORC%20Annual%20Report%20-%20An%20Analysis%20of%20the%20Sex%20Offender%20Special%20Sentence%20in%20Iowa.pdf](https://humanrights.iowa.gov/sites/default/files/media/CJP_2015%20SORC%20Annual%20Report%20-%20An%20Analysis%20of%20the%20Sex%20Offender%20Special%20Sentence%20in%20Iowa.pdf)

<sup>46</sup> Ibid.

<sup>47</sup> Yates, C. & TenNapel, M (2021). A Longitudinal Analysis of Iowa's Sex Offender Special Sentence Supervision. Iowa Department of Human Rights, Division of Criminal & Juvenile Justice Planning. Report available upon request.

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The JAB will monitor and review evidence regarding the effectiveness of the special sentence in order to:

- 1) Determine if the special sentence reduces sex offending.
- 2) Determine if the sentence or duration is appropriate for all cases.

The results of the studies will be shared through presentation and infographics distributed to other interested boards, legislators, and the public in order to educate others on sex offender outcomes and the effectiveness of current policies.

### **THREE-YEAR GOAL: Examine technical violations**

One of the consequences of the special sentence has been an increase in the numbers of individuals under community supervision, and, subsequently, the number of revocations. The 2022 Prison Population Forecast reports that from 2013 to 2022 special sentence returns have increased 31.8%.<sup>48</sup> The analysis of the special sentence by CJJP in 2021 found that among a small sample group of sex offenders serving special sentences, 36.2% returned to prison on technical violations within 9 years.<sup>49</sup> The JAB will:

- 1) Gather information on types of technical violations accrued by sex offenders and which violations result in revocation to prison.

### **THREE-YEAR GOAL: Examine the efficacy of sex offender residency restrictions**

In addition to examining the effectiveness of the special sentence and the use of technical violations in reducing future offending, the JAB will also seek evidence to:

- 1) Determine if residency restrictions (live at least 2,000 feet from schools and child care facilities) reduce sex offending.

An expert on Iowa's Sex Offender Registry presented information to the JAB in February 2021. This included a history of the sex offender registry, who the 2000-foot rule applies to in Iowa, legislation, and the number of offenders currently placed on the registry.

All states are required by federal law to operate sex offender registries. In Iowa, offenders are placed on the registry while on probation or once they reenter the community (after incarceration) for a period of time of at least 10 years up to life (concurrent with the duration of their special sentence), in which the time restarts if they are revoked. All sex offenders and some offenders who have committed other offenses that are determined to be sexually

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<sup>48</sup>TenNapel, M., & Yates, C. (2022). Iowa Prison-Population Forecast FY 2022 - FY 2032.

<sup>49</sup> Yates, C. and TenNapel, M. (2021). Division of Criminal and Juvenile Justice Planning. "A Longitudinal Analysis of Iowa's Sex Offender Special Sentence Supervision."

[https://humanrights.iowa.gov/sites/default/files/media/2021\\_Sex\\_Offender\\_Special\\_Sentence\\_Longitudinal\\_Analysis.pdf](https://humanrights.iowa.gov/sites/default/files/media/2021_Sex_Offender_Special_Sentence_Longitudinal_Analysis.pdf)

motivated (murder, harassment, stalking, kidnapping, etc.) are required to register. The registry operates within a tier system (I, II, III) based on the nature of their original sex offense or other offense determined to be sexually motivated. The tiers determine how often offenders have to report in person to the county sheriff for registration. Tier I offenders must report to their county sheriff on an annual basis, Tier II bi-annually, and Tier III quarterly. If a registrant changes residence, employment, or school attendance, at any time of the year, they are required to report to the sheriff within five days.

Offenders who committed aggravated offenses against minors are subject to the 2,000-foot rule, and must reside more than 2,000 feet from a school or child care facility. This has resulted in challenges for offenders trying to find housing. Generally, they cannot be present at child care facilities or on school grounds. Sex offenders convicted of a sex offense against a minor cannot loiter within three hundred feet of a school, child care facility, public library, or other places intended for children. Sex offenders convicted of a sex offense against a minor cannot be employed at fairs, carnivals, arcades, amusement parks, pools, libraries, playgrounds, or food vending serving minors. Registrants also cannot be employed at a facility providing services to dependent adults.

Violation of registration requirements carries an aggravated misdemeanor penalty for a first offense and a D felony for a second of subsequent offense; with increased penalties for those who commit a sex crime when in violation of the registry requirements. Offenders can apply for registration modification, if eligible. SF2363 was passed in 2022 to lengthen the time before a sex offender could apply for modification of the sex offender registry and also modify the requirements on qualification for modification under Code 692A.128. For tier I sex offenders, the length of time an offender will have to be on the registry before applying for modification was increased from 2 years to 10 years. For tier II and III offenders, the length of time an offender will have to be on the registry before applying for modification was increased from 5 years to 15 years. This does not apply to juvenile offenders. The law requires the offender be classified as low risk on a validated risk assessment tool, have completed original sentence supervision and treatment requirements, and the offender must not have committed any offense higher than a simple misdemeanor within the 10 year or 15 year period in order to be considered for modification.

CJJP will study the effectiveness of the sex offender registry. Of interest is whether sex offender registration and notification policies have reduced recidivism (any new conviction, felony conviction, prison return, etc.), and particularly, whether it has deterred new sexual offenses. Also, the study will identify the number of offenders who have violated the registry requirements and if these offenders differed in any way from those who did not violate registry requirements. Policies allowing for modification of registry requirements will be studied, as well as the costs of placing offenders on the registry. Finally, issues in finding housing as a result of the 2,000 foot rule and the effectiveness of the 2,000 foot rule will be identified and explored.



### **THREE-YEAR GOAL: Survivors/victims**

Along with examining the efficacy of the management of sex offenders, the JAB is committed to:

- 1) Supporting survivors and victims of sexual abuse.
- 2) Examining the appropriateness of restorative justice.

These action items could include endorsing promising practices by the Iowa Office of the Attorney General's Crime Victim Assistance Division and the Iowa Coalition Against Sexual Assault, and identifying and learning from other communities (e.g., Meskwaki, etc.) to support victims.

One organization that is currently working on restorative justice is called Impact Justice. The group's "Restorative Justice Project" partners with communities across the nation on pilot projects, including pre-charge diversion and provides training and technical assistance. More information on the core elements of their restorative justice model, current projects, and resources they could offer will be provided to the JAB.

### **NEXT STEPS: Priority Four**

Although progress has been made in Priority 4's goals and action items, the JAB has identified additional actions to continue advancing this priority area.

1. CJJP staff will work on summarizing past research on sex offenders and present the findings to Iowa CBC District Directors statewide. CJJP staff will also work on an extended outreach plan to present research on sex offenders to other state agencies and councils. The JAB will assist to identify agencies and councils.
2. The JAB is interested in examining the validity of the risk assessments utilized to determine if sex offenders are removed from the sex offender registry.
3. The JAB is also interested in collaborating with the Iowa Crime Victim Assistance Division (CVAD) to study effectiveness of services or additional work to support victims.